

1 Mercado.

2 (witness sworn.)

3 OFFICER JOHN MERCADO

4 Having been first duly sworn, was examined and  
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. ARNOLD:

8 Q. Good morning, sir. Would you state  
9 your name and spell your last name for the record?

10 A. John Mercado, last name spelled  
11 M-e-r-c-a-d-o.

12 Q. And you're a Cincinnati Police  
13 officer?

14 A. Yes.

15 Q. How were you assigned on the 16th of  
16 October, 2002?

17 A. I was assigned to the Regional  
18 Narcotics Unit.

19 Q. Did you have occasion to be involved  
20 in the search, execution of a search warrant at  
21 1975 West North Bend Road?

22 A. Yes.

23 Q. And tell the Court what your role was  
24 in obtaining this search warrant.

25 A. I was assigned as a case agent on an

1 investigation. I was conducting that, led to  
2 several arrests, and subsequently those arrests on  
3 the -- October the 15th, I gained enough  
4 information to fill out an affidavit requesting  
5 the search of the location in question, and served  
6 signed affidavit and search warrant on the 15th  
7 from Judge Winkler.

8 Q. Okay. On that execution did you get  
9 the warrant on the 15th or 16th, if you recall?

10 A. On the 16th.

11 Q. Okay. Was that warrant subsequently  
12 executed on North Bend Road?

13 A. Yes, sir.

14 Q. Did you participate in the search  
15 that followed?

16 A. I was present during most of the  
17 search.

18 Q. Can you describe the facility on  
19 North Bend Road for us?

20 A. It's a kind of large warehouse, has  
21 several divided sections in it with garage bays.  
22 Got a large entrance that faces north which has an  
23 extra-large size door that would allow access for  
24 a tractor-trailer.

25 Q. I want to direct your attention to

1 the vehicle involved here; is that the vehicle  
2 that you're referring to?

3 A. Yes.

4 Q. Okay, and what else was recovered  
5 during the search execution of that warrant?

6 A. Numerous boxes containing marijuana  
7 that were within a small storage room within the  
8 bay.

9 There was also documentation and  
10 other items that were taken of evidence.

11 Q. Okay, and approximately how much  
12 marijuana was recovered from the premises?

13 A. Close to 500 pounds.

14 Q. You testified that this was an  
15 ongoing investigation, that you had interviewed  
16 subjects the day before; is that correct?

17 A. Yes.

18 Q. Was one of those individuals Eddie  
19 Moore?

20 A. Yes.

21 Q. Did Mr. Moore have any -- provide you  
22 with any information concerning activities on  
23 North Bend Road on the 15th?

24 A. Yes.

25 Q. And when did you interview him?

1 A. 15th.

2 Q. Okay. When did he report to you that  
3 he saw certain things occur on the --

4 MR. SIRKEN: Objection. It's  
5 hearsay.

6 THE COURT: Why isn't it hearsay, Mr.  
7 Arnold?

8 MR. ARNOLD: Your Honor, I haven't --  
9 I haven't asked him anything. I'm just  
10 asking if he made statements to him.

11 That's not hearsay yet. We'll get to that.

12 THE COURT: All right.

13 Q. Did Mr. Moore make statements to you  
14 concerning events which occurred on the 15th?

15 A. Yes.

16 Q. All right, and how relatively long  
17 after he perceived them was this?

18 MR. SIRKEN: Objection.

19 THE COURT: I'll let him answer.

20 A. Repeat, please.

21 Q. How long after -- how long did you  
22 wait from the time you interviewed him until the  
23 time he actually saw the activity he reported to  
24 you?

25 A. It all happened within a day.

1 Q. okay. what information did Mr. Moore  
2 provide as to the activities on the 15th at 1975

3 --

4 MS. FARLEY: Objection.

5 MR. SIRKEN: Objection.

6 Q. -- North Bend --

7 MR. ARNOLD: Let me rephrase that.

8 Q. what did Mr. Moore tell you that he  
9 saw on the 15th --

10 MR. SIRKEN: Objection.

11 Q. -- on North Bend Road?

12 MS. FARLEY: Objection. The same  
13 objection.

14 MR. ARNOLD: I understand, Your  
15 Honor, that under Rule 801 -- I'm sorry,  
16 803017, Judge, it relates to conspiracy,  
17 establishment of a conspiracy, precise  
18 impression.

19 MR. SIRKEN: We have no ability to  
20 cross-examine Crawford. We have no ability  
21 to cross-examine this Mr. Moore.

22 MR. ARNOLD: This is not a criminal  
23 case, Your Honor.

24 MR. SIRKEN: It doesn't make any  
25 difference. Rules of evidence apply in

1 both civil and criminal matters.

2 THE COURT: I know. Objection  
3 sustained.

4 MR. ARNOLD: No further questions.

5 THE COURT: Cross-examine.

6 CROSS-EXAMINATION

7 BY MR. SIRKEN:

8 Q. Officer Mercado, how many trucks were  
9 on the premises that day that you got there on  
10 October 16?

11 A. Of this type? There were many  
12 vehicles.

13 Q. How many trucks were there on that  
14 day?

15 A. I did not count how many trucks there  
16 were.

17 Q. There obviously was more than one?

18 A. Well, on the property, yes. Within  
19 the building, no.

20 Q. Within the property that you entered  
21 on that date, not in the warehouse, but in that  
22 location, how many vehicles were there?

23 A. Once again, I don't know. I did not  
24 count all of them.

25 Q. There was more than one?

1 A. Yes, sir.

2 Q. Did you ever observe that  
3 Freight-liner that we're talking about, did you  
4 ever observe that in transit?

5 A. No, I did not.

6 Q. Did you see it come onto the  
7 premises?

8 A. Again, I did not see it in transit,  
9 so I did not see it come onto the premises.

10 Q. So you have no personal knowledge,  
11 you never saw anything that was on that or in that  
12 -- in that particular Freight-liner; is that  
13 correct? What was inside that Freight-liner, did  
14 you observe any marijuana inside that  
15 Freight-liner?

16 A. No, I did not.

17 MR. SIRKEN: I have no further  
18 questions.

19 THE COURT: Anything else?

20 MR. ARNOLD: Nothing further, sir.

21 MR. COHEN: I do have some questions.

22 CROSS-EXAMINATION

23 BY MR. COHEN:

24 Q. Officer Mercado, during the course of  
25 this investigation and search are you aware

1 narcotics dogs were placed inside that  
2 Freight-liner to search for contraband?

3 A. I don't recall that specifically.

4 THE COURT: I need to get a  
5 clarification. We're talking about a  
6 Freight-liner, which is actually the cab  
7 portion of a tractor trailer?

8 MR. ARNOLD: That's correct.

9 THE WITNESS: That's correct.

10 THE COURT: We're not talking about  
11 the trailer part, talking about the cab  
12 part?

13 MR. COHEN: It's the part the trailer  
14 is attached to.

15 THE COURT: Okay. I just wanted to  
16 find out. I didn't know. Okay, go ahead.

17 Q. So, best of your knowledge, no  
18 contraband was found within that trailer -- I  
19 mean, within that Freight-liner; is that correct?

20 A. That's correct.

21 Q. And that trailer -- or that  
22 Freight-liner is still out at the impound lot out  
23 on Hamilton Avenue?

24 A. My last knowledge of it, I mean, it's  
25 still there. I do believe that's correct.

1 Q. Was there any evidence that a trailer  
2 had been hooked up on that tractor?

3 A. Our investigation had nothing to do  
4 with the trailer, nor did -- not that I know of,  
5 no, not -- not as it involved our investigation.

6 Q. Your investigation and the indictment  
7 and further discovery provided in that case, the  
8 allegation was that Mr. Rennick, in the company of  
9 others, transported a little over 500 pounds of  
10 marijuana in that truck; correct?

11 A. In the truck, correct, having nothing  
12 to do with the trailer.

13 Q. All right. And you've never been  
14 able to discover, been able to provide any  
15 evidence that indeed any type of contraband which  
16 would relate to narcotic transportation was ever  
17 discovered within that vehicle; correct?

18 A. We did not recover the marijuana from  
19 the vehicle.

20 Q. Because there never was any marijuana  
21 in that vehicle?

22 MR. ARNOLD: Objection.

23 THE COURT: Well --

24 MR. COHEN: Strike that.

25 THE COURT: Well, actually, you may

1 answer.

2 A. According to what the -- the defense  
3 attorney said right now, it's incorrect.

4 Our investigation shows that there  
5 was marijuana within that vehicle.

6 MR. SIRKEN: I object to that, unless  
7 that officer was the one that conducted  
8 that particular investigation.

9 THE COURT: Just ask the officer if  
10 he has any knowledge that it was or wasn't  
11 there, personal knowledge.

12 MR. ARNOLD: Your Honor, he's opened  
13 the door at this point by his own  
14 questions.

15 THE COURT: Well, I want this officer  
16 to testify from his personal knowledge. Do  
17 you have any personal knowledge that there  
18 was contraband in this tractor?

19 THE WITNESS: If I may, Judge, I did  
20 not personally see marijuana within the  
21 vehicle, if that's the answer to Your  
22 Honor's question.

23 And to answer the defense attorney's  
24 question, as to whether there was ever  
25 marijuana within that vehicle, my interview

1 of numerous subjects of the investigation  
2

3 --

4 MR. SIRKEN: Objection to anything  
5 about interviews of other people.

6 THE WITNESS: I'm merely answering  
7 the defense attorney's question.

8 MR. SIRKEN: I object to interviews  
9 of separate parties.

10 THE COURT: Right, yes. I want this  
11 witness to testify from his own personal  
12 knowledge and he's already answered the  
13 question.

14 THE WITNESS: Thank you, Your Honor.

15 Q. Officer Mercado, did you ever search  
16 that vehicle?

17 A. I didn't conduct the initial search  
18 of the vehicle. I have been in it.

19 Q. Inside of the vehicle?

20 A. Yes.

21 Q. Was there a strong smell of marijuana  
22 within that vehicle when you searched it?

23 A. At the time that I searched the  
24 vehicle I did not smell marijuana. But it was  
25 later to the date that we seized it.

MR. COHEN: Thank you. I have no

1 further questions.

2 THE COURT: Any questions, counselor?

3 MS. FARLEY: Very briefly, Your  
4 Honor.

5 CROSS-EXAMINATION

6 BY MS. FARLEY:

7 Q. You stated that the marijuana was  
8 discovered in a storage room in the facility?

9 A. Yes.

10 Q. Okay. Was that in Section A or  
11 Section B of 1975?

12 A. I -- I don't know how the sections  
13 are categorized.

14 Q. So you don't know whether it was in  
15 the section of the building occupied and used by  
16 Mr. Rennick or by the tenants?

17 A. My personal experience with Mr.  
18 Rennick, Mr. Rennick occupies and uses the entire  
19 building.

20 Keys to the storage facility where  
21 the marijuana was recovered were obtained from  
22 Mr. Rennick.

23 Q. He's the landlord?

24 A. As far as I'm concerned, my  
25 investigation showed him as the owner of the

1 building and the property within the building.

2 MS. FARLEY: Okay. Nothing further.

3 THE COURT: Anything else, Mr.  
4 Arnold?

5 MR. ARNOLD: Not at this time.

6 THE COURT: All right. You may step  
7 down.

8 MR. ARNOLD: Call Officer Conners.

9 (Witness sworn.)

10 OFFICER CHRIS CONNERS

11 Having been first duly sworn, was examined and  
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. ARNOLD:

15 Q. Sir, would you please state your name  
16 and spell your last name, give us your duty  
17 assignment for the record?

18 A. Chris Conners, C-o-n-n-e-r-s,  
19 Cincinnati Police Sergeant, assigned to District  
20 One.

21 Q. Okay. And directing your attention  
22 to on or about 16 October 2002, how were you  
23 assigned?

24 A. I was assigned as an investigator  
25 with the Regional Narcotics Unit.